

content which remains substantially constant due to the change of the second bit rate.

The Rejection under 35 U.S.C. § 102

The Examiner rejected Claims 1-12 and 14 as being anticipated by Kiriyama, as set forth in the Office Action of February 2, 1999 and the Advisory Action of November 2, 1999. Applicant respectfully traverses this rejection on the grounds that Kiriyama does not derive a second bit rate as a percentage of the first bit rate, which percentage changes inversely in relation to changes in the first bit rate in order to transmit the output data signal to a decoder buffer at the second bit rate. In the present invention, the second bit rate (B2) is generated so that the decoder buffer has a content which remains substantially constant due to the change of the second bit rate. B2 represents the rate at which the encoded digital video bit stream is read out of the encoder buffer. B2 is generated without regard to the output rate from the decoder. B2 is not necessarily equal to the decoder output rate because the decoder buffer adds the delay necessary to achieve synchrony between the audio and the video (THV). Applicant believes that what the Examiner refers to as B2 in Kiriryama is not the same B2 as in the current invention and is not derived in the same manner. Applicant believes that B2 in Kiriyama is the decoder buffer output rate.

It appears that in Kiriyama, the bit rate of the data stream leaving the decoder buffer (B2) need only be equal to the encoder buffer input rate (B1), a constant time later, and need only satisfy a synchrony time delay constant (THV). As stated in lines 16-19 of

column 10, "A sum delay of the delay in the buffer memory 39 [of the encoder/multiplexer] plus the additional video delay becomes equal to the predetermined video delay threshold value THV." Therefore, the constant delay criteria in Kiriya does not define any relationship between B1 and B2. B2 in Kiriya is only a function of the output data signal exit time from the decoder (THV).

Kiriya specifies this constant delay so that lip synchronism can be achieved, i.e. the audio and video will correspond. Applicants' Figure 3 explains why the relationship between B1 and B2 is not specified by the constant delay criteria in Kiriya. In the figure, the encoder buffer input rate B1 is denoted as $p[n]$. In the present invention, B2 is not represented by $p[n-d]$, the delayed decoder buffer output rate. B2 is represented by R[n] a second bit rate as a percentage of the first bit rate, which percentage changes inversely in relation to changes in the first bit rate. This rate B2, is not necessarily equal to the decoder buffer output rate, the rate at issue in Kiriya. Applicant believes that in Kiriya, the bit stream reaches the decoder from the decoder buffer at a rate that depends upon the decoder buffer delay required for the constant delay criteria to be satisfied. Accordingly, in column 9, lines 59-61, Kiriya states, "From the video buffer memory 71, the read video data are read with an additional video delay relative to production of the separated video data from the video processor 65." In the present invention, B2 is generated so that the decoder remains substantially constant and is unrelated to the constant time delay (THV) required for lip synchronism.

Allowable Subject Matter

Accordingly, for the reasons stated above, Applicant respectfully submits that claims 1-12, and 14 are allowable over the references of record. Entry of this Amendment, reconsideration of the rejections and allowance of all the claims is respectfully requested.

Respectfully submitted,

By Cherie S. Werbel
Cherie S. Werbel, Reg. 40,870
Attorney
(914) 333-9605
February 14, 2000

CERTIFICATE OF MAILING

It is hereby certified that this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to:

COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

On 2/15/00
By Cherie S. Werbel
Cherie S. Werbel, Reg. 40,870